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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,745	02/20/2002	Takayuki Koda	219843US0	3447
22850	7590	01/05/2004		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
FRONDA, CHRISTIAN L				
ART UNIT		PAPER NUMBER		
1652				

DATE MAILED: 01/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/077,745

Applicant(s)

KODA ET AL.

Examiner

Christian L Fronda

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6/6/02.
- 4) ☐ Interview Summary (PTO-413) Paper No(s), \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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### DETAILED ACTION

1. Claims 1-7 are under consideration in this Office Action.

#### *Claim Rejections - 35 U.S.C. § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Ter-Sarkesyan et al.

MPEP § 2113 states that for product-by-process claims, determination of patentability is based on the product itself and that the patentability of a product does not depend on its method of production. Hence, no patentable weight is given to the preparation steps used to make the claimed organic nitrogen-containing composition comprising fermentation mother liquor.

For examination purposes, the claims will only be examined as being directed to any organic nitrogen-containing composition comprising any fermentation mother liquor with no other limitations.

Ter-Sarkesyan et al. teach a method for extracting glutamic acid from fermentation a broth by cation-exchange chromatography and a subsequent crystallization stage, and a potassium and nitrogen fertilizer comprising a mother liquor from said crystallization stage (see attached Abstract). Thus, the reference teachings anticipate the claimed invention.

4. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Shibata et al. (the reference is cited as AW in the IDS dated 8/22/2002)

MPEP § 2113 states that for product-by-process claims, determination of patentability is based on the product itself and that the patentability of a product does not depend on its method of production. Hence, no patentable weight is given to the preparation steps used to make the claimed organic nitrogen-containing composition comprising fermentation mother liquor.

For examination purposes, the claims will only be examined as being directed to any organic nitrogen-containing composition comprising any fermentation mother liquor with no other limitations.

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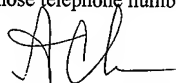
Shibata et al. teach *Brevibacterium thiagenitalis* was cultured in a fermentation medium and the glutamic acid crystallized and removed from the fermentation medium. Shibata et al. teach that the resulting nitrogen-containing fermentation waste medium (mother liquor) is an excellent fertilizer. Thus, the reference teachings anticipate the claimed invention.

***Conclusion***

5. No claim is allowed.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian L. Fronda whose telephone number is (703)305-1252. The Examiner can be contacted Monday-Friday from 8:30AM - 5:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, can be reached at (703)308-3804. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is (703)308-0196.

CLF

  
PONNATHAPURACHUTAMURTHY  
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